

## CONGRESSIONAL RECORD SUMMARY

Wednesday, April 9, 2003, Part I

### SENATE

#### Measures Introduced:

**S. 826.** A bill to *amend the Violence Against Women Act of 1994* to provide for transitional housing assistance grants for child victims of domestic violence; to the Committee on the Judiciary.

Leahy

*Pages S 5059, S 5061-2*

**S. 832.** A bill to provide that bonuses and other extraordinary or excessive compensation of corporate insiders and wrongdoers may be included in the bankruptcy estate; to the Committee on the Judiciary.

Grassley

*Pages S 5059, S 5068-9*

**S. 837.** *A bill to establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes; to the Committee on Governmental Affairs.*

Brownback

*Pages S 5059, S 5071*

**S. 841.** A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Harkin

*Pages S 5059, S 5073-5*

**S. 844.** *A bill to subject the United States to imposition of fees and costs in proceedings relating to State water rights adjudications; to the Committee on the Judiciary.*

*"...I rise to introduce the Water Adjudication Fee Fairness Act. This bill would require the Federal Government to pay the same filing fees and costs associated with state water rights adjudications as is currently required of States and private parties. [ ] In 1952, Congress recognized the necessity and benefit of requiring Federal claims to be adjudicated in these State proceedings by adopting the McCarran Amendment. The McCarran Amendment waives the sovereign immunity of the United States and requires the Federal Government to submit to State court jurisdiction and to file water rights' claims in State general adjudication proceedings. These Federal claims are typically among the most complicated and largest of claims in State adjudications, and Federal agencies are often the primary beneficiary of adjudication proceedings where states officially quantify and record their water rights. However, in 1992, the United States Supreme Court held that, under existing law, the U.S. need not pay fees for processing Federal claims..."*

Crapo

*Pages S 5059, S 5083*

#### Measures Reported:

**S. 763,** *to designate the Federal building and United States courthouse located at 46 Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse."*

*Pages S 5058, D 374*

#### Measures Passed:

**Care Act:** By 95 yeas to 5 nays (Vote No. 128), *Senate passed S. 476*, to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, after taking action on the following amendment proposed thereto:

*Pages S 5007-44, D 374*

*Pursuant to the order of April 3, 2003, the bill was ordered held at the desk.*

*Page D 374*

**Nomination--Agreement:**

*A unanimous-consent agreement was reached providing for consideration of the nomination of Jeffrey S. Sutton, of Ohio, to be United States Circuit Judge for the Sixth Circuit, at a time to be determined by the Majority Leader, after consultation with the Democratic Leader, on Friday, April 11, 2003; following debate on that day, the nomination be set aside and the Senate resume consideration on Monday, April 28, 2003 for debate only; further, following debate on that day, the nomination be set aside and the Senate continue its consideration on Tuesday, April 29, 2003, and at a time to be determined by the Majority Leader, after consultation with the Democratic Leader, with a vote on confirmation of the nomination.*

*Pages S 5096, D 375*

**Nominations Confirmed:**

**Senate confirmed the following nominations:**

*By unanimous vote of 99 yeas (Vote No. 130), Dee D. Drell, of Louisiana, to be United States District Judge for the Western District of Louisiana.*

*Pages S 5049, D 375*

*By unanimous vote of 99 yeas (Vote No. 131), Richard D. Bennett, of Maryland, to be United States District Judge for the District of Maryland.*

*Pages S 5049-2, D 375*

*"... Had President Clinton's circuit court nominees been confirmed, the circuit courts would have been evenly balanced, with six circuits with a majority of Democratic appointees and six circuits with a majority of Republican appointees and one circuit with an even number of Democratic and Republican appointees. If President Bush succeeds in winning the confirmation of nominees to every circuit vacancy he inherited plus the ones that have arisen since then, only two circuits will have a majority of Democratic appointees and 11 will have a majority of Republican appointees. In many of those circuits, the Republican appointees will have at least a 2-1 majority on every panel on average. More than 67 percent of the appointments to those courts will be by Republicans..." (Leahy, page S 5051)*

**Nominations Received:**

**Senate received the following nominations:**

*William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit, vice Emmett Ripley Cox, retired.*

*Thomas M. Hardiman, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania, vice William L. Standish, retired.*

*J. Ronnie Greer, of Tennessee, to be United States District Judge for the Eastern District of Tennessee, vice Thomas G. Hull, retired.*

*Pages S 5101, D 375*

**Executive Communication:**

*EC-1860. A communication from the Secretary, Judicial Conference of the United States, transmitting, pursuant to law, the report relative to the judiciary's courthouse construction requirements and*

*construction budget for fiscal year 2004 along with the out-year requirements for fiscal years 2005-2008, received on April 4, 2003; to the Committee on the Judiciary.*

*Page S 5057*

**Committee Meetings:**

**Committee on Commerce, Science, and Transportation:** Committee concluded hearings to examine homeland security issues, focusing on securing the nation's transportation systems, borders, and ports of entry.

**Committee on Environment and Public Works:** *Committee ordered favorably reported the following business item: S. 763, to designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse."*

**Committee on Finance:** Committee held hearings to examine the 2003 Annual Report of the Board of Trustees of the Federal Old Age and Survivors Insurance and Disability Insurance Trust Funds, focusing on the current financial status of the Social Security program, new measures in the report, sustainable solvency, stochastic projections and uncertainty, and the effects of deferring reform.

*Page D 376*

**Committee on Foreign Relations:** Subcommittee on East Asian and Pacific Affairs concluded hearings to examine United States policy toward the trafficking of women and children in East Asia, focusing on prevention, protection and support for victims, and prosecution of traffickers.

**Committee on Governmental Affairs:** Committee held hearings to examine homeland security issues, focusing on the Department of Homeland Defense's responsibilities in assisting states, local governments, and first responders.

*Page D 377*

**Committee Meetings For Thursday, April 10, 2003:**

**Committee on Appropriations:** @ 10:00 a.m. Subcommittee on Commerce, Justice, State, and the Judiciary, to hold hearings to examine proposed budget estimates for fiscal year 2004 for the Federal Bureau of Investigation. S-146, Capitol.

*Page D 381*

**Committee on the Judiciary:** @ 10:00 a.m. *Business meeting to consider S. 274, to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, S. 731, to prohibit fraud and related activity in connection with authentication features, and the nominations of J. Leon Holmes, to be United States District Judge for the Eastern District of Arkansas, Susan G. Braden, of the District of Columbia, and Charles F. Lettow, of Virginia, each to be a Judge of the United States Court of Federal Claims, Cecilia M. Altonaga, to be United States District Judge for the Southern District of Florida, and Patricia Head Minaldi, to be United States District Judge for the Western District of Louisiana. SD-226.*

*Page D 382*

**HOUSE**

**Reports Filed:**

**Reports were filed today as follows:**

**Conference report on S. 151**, to amend title 18, United States Code, with respect to the sexual exploitation of children (House Report 108-66);

**H. Res. 188**, waving points of order against the conference report to accompany **S. 151**, to amend title 18, United States Code, with respect to the sexual exploitation of children (House Report 108-68);

*Page D 378, See next issue*

**H.R. 1036. Protection of Lawful Commerce in Arms Act:**

**The House passed H.R. 1036**, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others by yea-and-nay vote of 285 yeas to 140 nays, Roll No. 124.

*Pages H 2944-99, D 378*

*"...As we speak, anti-second amendment organizations are shopping around for sympathetic judges who will be willing to rule that firearms manufacturers are liable for individuals using guns in the commission of crimes. While virtually every lawsuit brought against gun manufacturers has been thrown out of court, it is only a matter of time until a liberal judge, sympathetic to the anti-second amendment lobby, rules in their favor..." (Weldon, page H 2992)*

**Rejected the Watt motion that sought to recommit the bill back to the Committee on the Judiciary with instructions to report it back forthwith with amendments that strike the provisions that dismiss prohibited liability actions pending in any Federal or State court by yea-and-nay vote of 140 yeas to 282 nays, Roll No. 123.**

*Pages H 2997-8, D 378*

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill (H. Rept. 108-59) was considered as an original bill for the purpose of amendment, and subsequently agreed to.

*Pages H 2997, D 378*

**Rejected:**

**Watt amendment No. 1** printed in H. Rept. 108-64 that sought to strike language that specifies that if a product is used as intended, then a liability action may be taken for damages resulting from a defect in design or manufacture;

*Pages H 2979-82, D 378*

**Scott amendment of Virginia No. 2** printed in H. Rept. 108-64 that sought to eliminate the requirement for the conviction of a transferor before a liability action could be taken (rejected by recorded vote of 148 yeas to 278 noes, Roll No. 120);

*Pages H 2982-4, H 2994-5, D 378*

**Linda T. Sanchez of California amendment No. 3** printed in H. Rept. 108-64 that sought to permit liability actions against gun sellers or manufacturers who sell guns or ammunition to someone who uses illegal drugs or who has been adjudicated as a mental defective (rejected by recorded vote of 134 yeas to 289 noes, Roll No. 121);

*Pages H 2984-7, H 2995, D 378*

**Meehan amendment No. 4** printed in H. Rept. 108-64 that sought to permit liability actions against manufacturers, sellers, or trade associations for negligence (rejected by recorded vote of 144 yeas to 280 noes, Roll No. 122); and

*Pages H 2987-90, H 2995-6, D 378*

**H.R. 1036. Protection of Lawful Commerce in Arms Act (Cont'd.):**

**Watt amendment No. 5** printed in H. Rept. 108-64 that sought to permit liability actions against distributors, dealers, importers of firearms or ammunition products and trade associations.

*Pages H 2991-4, D 378*

Certain words used in debate were objected to and, on request, were taken down and read at the Clerk's

desk. The Chair found that the words were not unparliamentary under the rules and precedents of the House. Agreed to table the appeal of the ruling of the Chair by a recorded vote of 227 ayes to 195 noes with 1 voting "present," Roll No. 119.

*Pages H 2990, D 378*

**H. Res. 181**, the rule that provided for consideration of the bill was agreed to by voice vote.

*Pages H 2944-50, D 378*

**Text Of The Conference Report on S. 151, Prosecutorial Remedies And Other Tools To End The Exploitation Of Children Today Act, 2003.**

*Pages H 2950-68*

**See Page H 2955: Subtitle D—Missing Children Procedures in Public Buildings.**

*(3) Designated authority.--The term "designated authority" means--*

*(B) with respect to the Supreme Court Building, the Marshal of the Supreme Court; with respect to the Thurgood Marshall Federal Judiciary Building, the Director of the Administrative Office of United States Courts; and with respect to all other public buildings owned or leased for use by an establishment in the judicial branch of government, the General Services Administration in consultation with the United States Marshals Service...*

**Committee Meetings:**

**Committee on Appropriations: Subcommittee on Commerce, Justice, State and the Judiciary, and Related Agencies held a hearing on Supreme Court. Testimony was heard from the following Justices of the Supreme Court: Anthony M. Kennedy; and Clarence Thomas.**

**Committee on Appropriations: Subcommittee on District of Columbia held a hearing on Court Services and Offender Supervision Agency.**

*Page D 379*

**Committee on Appropriations: Subcommittee on Legislative held a hearing on House of Representative, the Library of Congress, the CBO, the GPO, and the GAO.**

*Pages D 379-80*

**Committee on Education and the Workforce: Ordered reported H.R. 1119, Family Time Flexibility Act.**

**Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany S. 151, Prosecutorial Remedies and Tools Against the Exploitation of Children Today (PROTECT) Act of 2003 and against its consideration. The rule provides that the conference report shall be considered as read.**

*Page D 380*

**Committee Meetings (Cont'd.):**

**Committee on Transportation and Infrastructure: Ordered reported the following measures: H.R. 281, to designate the Federal building and United States courthouse located at 200 West 2nd Street in Dayton, Ohio, as the "Tony Hall Federal Building and United States Courthouse;" and H.R. 1018, to designate the building located at 1 Federal Plaza in New York, New York, as the "James L. Watson United States Court of International Trade Building." The Committee also approved 15 GSA Lease**

*resolutions and 2 amending resolutions.*

*Page D 381*

**Joint Committee Meetings:**

*Conferees on Tuesday, April 8, agreed to file a conference report on the differences between the Senate and the House passed versions of S. 151, to prevent child abduction and the sexual exploitation of children.*

*Conferees agreed to file a conference report on the differences between the Senate and the House passed versions H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013.*

*Page D 381*

**Committee Meetings For Thursday, April 10, 2003:**

**Committee on Appropriations,** @ 10:00 a.m. Subcommittee on Commerce, Justice, State and the Judiciary and Related Agencies, on Members of Congress. H-309 Capitol.

**Committee on Government Reform,** @ 11:30 a.m. Hearing entitled “*Are We Ready for Prime Time? Assessing the State of Emergency Readiness in the Nation's Capital.*” 2154 Rayburn.

**Committee on the Judiciary,** @ 10:00 a.m. Subcommittee on Immigration, Border Security, and Claims, oversight hearing on “*Department of Homeland Security Transition: Bureau of Immigration and Customs Enforcement.*” 2237 Rayburn.

*Page D 382*

**Remark:**

Patient Privacy Act.

Paul

*Pages E 712-13*

**Next SENATE MEETING: Thursday, 10:00 a.m., April 10, 2003.**

**Next HOUSE MEETING: Thursday, 10:00 a.m., April 10, 2003.**

**OLA: S. Schwarz, A. Getter-Santos**